



Domestic Security Committee

**Wednesday, March 8, 2006
1:00 PM
12 House Office Building**

**Rep. Sandy Adams
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

Domestic Security Committee

Start Date and Time: Wednesday, March 08, 2006 01:00 pm

End Date and Time: Wednesday, March 08, 2006 03:00 pm

Location: 12 HOB

Duration: 2.00 hrs

Consideration of the following proposed committee bill(s):

PCB DS 06-03 -- Succession to the Office of Governor

PCB DS 06-02 -- Disaster Preparedness, Response, and Recovery

PCB DS 06-01 -- Seaport Security and Access Control/Credentialing

PCB DS 06-04 -- Seaport Employee Security Access/Credentialing Waiver Process

NOTICE FINALIZED on 03/06/2006 15:55 by LOVE.JOHN

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB DS 06-01 Seaport Security and Access Control/Credentialing
SPONSOR(S): Domestic Security Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Domestic Security Committee		Newton <i>CA</i>	Newton <i>SB</i>
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The PCB establishes security area designations and access requirements for seaports. These designations allow seaport directors to utilize specific restrictive area and non-restrictive area designations in the seaport's security plan and credentialing program.

The PCB establishes a five year recurring review of seaport security plans by the seaport director with the assistance of the Regional Domestic Security Task Force and the United States Coast Guard. Additionally, the PCB provides for the use of a risk assessment by seaport directors in creating a security plan and determining the use of counter terrorism devises and initiatives. The PCB amends the waiver process and establishes an alternative means of compliance to the statewide minimum standards for seaport security. The PCB creates a prohibition on concealed weapons inside a seaport's restricted areas.

The PCB establishes a Seaport Security Standards Advisory Council under the Office of Drug Control for the purposes of reviewing the statewide seaport security standards for applicability to current narcotics and terrorist threats.

The PCB establishes a certification program for Seaport Security Officers and allows seaport authorities and governing boards to require security officers working on a seaport to receive additional training and designation as a certified Seaport Security Officer.

The PCB provides authority to create a Seaport Law Enforcement Agency at the discretion of the seaport director. This authority in no way mandates a seaport director to create such a force, if the seaport's security requirements are being met by other means. This provision allows the seaport director the choice of creating the seaports own internal law enforcement agency. The PCB establishes a maritime domain awareness training program for security awareness training of all seaport workers.

The PCB also authorizes certified Seaport Security Officers to detain, based on probable cause, persons believed to be trespassing in designated seaport restricted access areas pending the immediate arrival of a law enforcement officer, and provides to those officers limited protection from liability for false arrest, false imprisonment, and unlawful detention. The PCB makes it a felony to willingly and knowingly attempt to or obtain a seaport security identification card using false information.

The PCB takes effect July 1, 2006.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: pcb01.DS.doc
DATE: 3/6/2006

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government

The PCB authorizes governmental seaport authorities and local governments operating seaports to require that certain private security forces working at the port receive additional training and certification in addition to what is currently required by law.

The PCB provides greater latitude to the seaport directors in the establishment of security plans and the creation and use of seaport security forces.

Safeguard Individual Liberty

The PCB grants the authority to certified Seaport Security Officers to take certain trespass suspects into custody and detain them under specified circumstances. Security guards currently enjoy no such authority to detain trespass suspects.

Maintain Public Security

The PCB provides for more comprehensive seaport security planning through the use of risk analysis, review and inspection. By allowing seaport directors flexibility in security plan design and security force composition, each individual seaport can better meet the needs of that particular facility.

Additionally, authorizes governmental seaports to require private and other security forces to have additional training that is specific to the seaport security environment. Authorizes certain private and other seaport security forces to take trespass suspects into custody proactively and detain them until a law enforcement officer arrives. Currently, security guards are only authorized to react in a limited way when confronted.

B. EFFECT OF PROPOSED CHANGES:

Current Conditions

Security Area Designations

A seaport director shall designate any or all of his or her seaport as a restricted area. This designation has a direct effect on the seaport access credentialing process. The law requires all persons working on a port and having access to a restricted area must submit to a detailed background check. These security checks are often costly and time consuming. Currently, there are no provisions in the law to allow a seaport director latitude in designating areas as unrestricted. Area designations have long been tools for enforcement of restricted or off limits zones on a seaport. The ambiguity that exists in area designation protocols lends itself to increased cost to ports in worker credentialing and places limitations on seaport directors in security planning.

Seaport Security Standards and Waivers

Seaports subject to this PCB are required to review their security plan once every four years and are subject to inspection by the Department of Law Enforcement on a random and annual basis. Security plans developed by the seaports must conform to the standards as set forth in the Office of Drug Control, Minimum Security Standards for Florida Seaports.

In general the Office of Drug Control and the Department of Law Enforcement may modify or waive the standards as contained in the statewide minimum standards for seaport security.

Review of the Statewide Minimum Standards for Seaport Security

There are no provisions for review or modification of the statewide minimum standards for seaport security contained in s. 311.12, F.S.

Seaport Security Officer Training and Certification

Prior to 2000, seaport security in Florida was focused on supply chain theft prevention to protect the commercial interests of seaport tenants. Since 2001 considerable effort and resources have been devoted to improving physical security and security operations at Florida's commercial seaports to meet the ongoing concerns about drug trafficking and the emerging threat of terrorism. Florida pursued a successful strategy for seaport security improvements through grant funding now administered by the Transportation Security Administration of the Department of Homeland Security. However, these federal grants are restricted to pre-approved physical infrastructure improvements.

Improvements in security operations at Florida's seaports have been primarily funded through the Florida Seaport Transportation Economic Development Council (FSTED) and the commercial seaports individually. In order to accomplish these operational security improvements, the Council has voluntarily foregone needed economic development infrastructure projects. Concern for long-term funding of operational security costs prompted a review of operational structures at several public seaports by the Senate Domestic Security Committee.

The Florida Senate Interim Project Report 2005-144, Seaport Security, November 2004, describes and documents the above situation and identifies several possible methods to reduce or mitigate operational security costs including the training and certification of seaport security officers.

As a general rule, private security personnel working on Florida's public seaports are required to maintain at a minimum, a CLASS D private security officer license,¹ including at least 40 hours of professional education completed at a school or training facility licensed by the Florida Department of Agriculture and Consumer Services. At least one port employs CLASS G security officers as a part of its private security force. These officers are permitted to carry firearms and must undergo additional training requirements prior to obtaining a state CLASS G license.²

With the exception of Port Manatee, the state's county-operated ports appear to have operational security costs which are substantially higher than other public ports. The extensive use of government law enforcement employees, with the inherent costs of salary and benefits associated with those personnel may be a driving factor in those higher costs. In fact, ports using a blend of sworn law enforcement, non-sworn law enforcement, and private security forces had security operating costs of less than half that of the county operated facilities. One factor making it difficult to determine the cost of security at seaports is the widely differing operational and geographic scope of each port. The two county-operated ports are the largest operationally, and thus have more activity requiring security presence on a daily basis. However, the extreme differences in security costs between Port Everglades and Port of Miami as compared to Jaxport and Port of Tampa point to the method of service delivery being the reason for higher costs.

The use of some form of blended security force, either through additional port security officers holding appropriate state licenses, or through contracted services provided by licensed personnel from private security firms might provide some reduction in costs for ports now using county personnel. For example, Port Everglades, through its contract with the Broward County Sheriff's Office, pays overtime

¹ Section 493.6303, F.S.

² Section 493.6115, F.S.

costs to non-sworn personnel (CSAs) to stand guard post assignments in cruise terminals when ships are in port. A private security officer, under the direction of sworn law enforcement, could perform this same duty under an hourly contract, thus saving the port the overhead costs of salary, benefits, administration and supervision. A focused review of the use of sworn and non-sworn law enforcement personnel by each public seaport could result in cost savings through a different proportion of sworn and non-sworn government and private personnel without the loss of appropriate levels of security.

Proper training of private security personnel employed to protect Florida's public seaports is an ongoing concern. Prevention, protection and response procedures on seaports are quite unique and require specialized education and training. While CLASS D and CLASS G security officers must receive specialized patrol and firearms training, respectively, there is no required additional training, nor any additional specialized seaport security certification or separate class of security officers that have completed such training, recognized by the State of Florida.

Seaport Security Forces

Seaports in Florida utilize a combination of force structures to meet their human capital security needs. A contract between the seaport and local law enforcement agencies is a very popular approach to solving the Security needs of the seaport. Another is to contract with a private firm for security services. Still other seaports use a variation of employed labor and contracts to fulfill this requirement. Although seaports have the authority to contract for security service they are not authorized by statute to establish and maintain a seaport law enforcement agency under the sole control of the seaport director.

The Power to Detain

Florida law authorizes a law enforcement officer, a merchant, a farmer, or their employee or agent, who has probable cause to believe that a retail theft, farm theft, or trespass, has been committed by a person and, in the case of retail or farm theft, that the property can be recovered by taking the offender into custody may, for the purpose of attempting to effect such recovery or for prosecution, take the offender into custody and detain the offender in a reasonable manner for a reasonable length of time.³ The subsection further provides that in the event the merchant, merchant's employee, farmer, or a transit agency's employee or agent takes the person into custody, a law enforcement officer shall be called to the scene immediately after the person has been taken into custody. The subsection is also applicable to transit fare evasion with respect to detention. This statute provides that the taking of a person into custody does not, by itself, render the person taking the suspect into custody criminally or civilly liable for false arrest, false imprisonment or unlawful detention.

Additionally, Florida law currently authorizes the chief administrative officer of a school, who has probable cause to believe that a person is trespassing upon school grounds, to take the person into custody and detain him or her in a reasonable manner for a reasonable amount of time pending the arrival of a law enforcement officer. The taking of the person into custody does not, by itself, render the chief administrative officer criminally or civilly liable for false arrest, false imprisonment or unlawful detention.⁴

No similar authorization to detain exists in Florida law in the case of a trespass offender found in a restricted area on a seaport. No private seaport security officer may currently detain such a person pending the arrival of a law enforcement officer.

Security Identification Card

³ Section 812.015(3)(a), F.S.

⁴ Section 810.097, F.S.

State or federal law does not provide any penalty for the use of false information to obtain a seaport security identification card.

The Effects of the PCB

Security Area Designation

The PCB creates s. 311.111, F.S., detailing unrestricted and restricted access areas on seaports. Area designations are as follows: unrestricted, public access areas; restricted, public access areas; restricted access areas and secured, restricted access areas. By creating these categories of access areas, seaport directors shall incorporate these defined areas into the seaport's security plan. When designating areas as unrestricted, seaport directors may not require the full security background checks currently mandated of persons working on seaport property. Persons working solely in unrestricted, public access areas will be required to have identification as required by the seaport director. This allows for the reduction in credentialing costs to the seaports.

Seaport Security Standards and Waivers

The PCB aligns the requirements of the seaport to submit a security plan to the Department Law Enforcement for review with the federal requirement to submit a seaport security plan to the United States Coast Guard on a five year schedule. Seaport directors are required to perform risk assessments and incorporate the findings of the assessment into the seaports security plan. This will provide the seaport with current review of the security risks to the seaport on a continual basis. The Department of Law Enforcement is required to annually inspect and within thirty days of that inspection report its findings to the United States Coast Guard and others. The inspection of the seaports by the Department of Law Enforcement shall be based solely on the criteria established in Florida's statewide minimum seaport security standards and the standards as set forth in the federal Maritime Transportation Security Act. Other comments included in the annual inspection report are considered as recommendations and should be incorporated in the seaport's security plans.

Any findings disputed by the seaport related to the statewide minimum seaport security standards contained in the Department of law Enforcement report will be submitted to the Florida Domestic Oversight Council for review and mediation. The Decision of the Council is considered final. This appeals process provides the seaports with a redress procedure not previously granted.

A waiver process was previously in place for the modification of the statewide minimum seaport security standards. This process was underutilized and provides the seaports with no mediation should the Office of Drug Control and the Department of Law Enforcement not grant a waiver to the ports on the standards as written. The PCB creates a procedure for seaports to request the Domestic Security Oversight Council review the waiver request should the prior agencies fail to approve the waiver request. The decision of the Council is considered final.

Review of the Statewide Minimum Standards for Seaport Security

The PCB creates the Seaport Security Standards Advisory Council under the Office of Drug Control for the purpose of reviewing and recommending modifications to the statewide minimum seaport security standards. The Advisory Council shall meet at least once every five years and report its findings and recommendations to the Governor, the Speaker of the Florida House of Representatives and the President of the Florida Senate.

Seaport Security Officer Training and Certification

The PCB creates s. 311.121, F.S., allowing each seaport authority or governing board subject to statewide minimum seaport security standards to require security officers working on the seaport to undergo additional training and become certified as a Seaport Security Officer. The PCB establishes eligibility criteria to undergo training or demonstrate equivalency qualifications for certification as a Seaport Security Officer. In addition, it grants authority to evaluate and determine equivalency to the Department of Agriculture and Consumer Services Division of Licensing. The PCB also requires certified Seaport Security Officers to undergo at least eight hours of continuing education per Class D licensing cycle in order to maintain certification as a Seaport Security Officer. Failure to meet such requirements results in lapse of the certificate, and reexamination, at a minimum, is required to regain the certification.

The PCB provides for a steering committee to establish and periodically review a training curriculum for Seaport Security Officers and for continuing education of those officers. The curriculum must conform to or exceed the requirements of the appropriate model courses for seaport personnel approved by the federal Maritime Administration. Additionally, the PCB assigns the Department of Education the responsibility for implementing the steering committee curriculum recommendations and requires instructors conducting Seaport Security Officer training to hold a CLASS D license pursuant to s. 493.6301, F.S. The PCB provides that an organization applying for authorization to teach the curriculum may apply to become a licensed school pursuant to s. 493.6304, F.S.

The PCB also requires a candidate for certification to pass a proficiency examination and establishes criteria for maintaining valid certification. In addition, the PCB provides for the administration of the certification process and notification to the Division of Licensing of the Department of Agriculture and Consumer Services that a certificate has been issued.

Seaport Security Forces

The PCB creates s. 311.122, F.S., authorizing the creation of a Seaport Law Enforcement Agency by the seaport director to satisfy the seaport's security force requirements. By allowing seaport directors to establish an in-house law enforcement agency, the seaports have an opportunity to moderate costs and provide a flexible layered force for optimum protection and security.

The Power to Detain

The PCB authorizes a seaport security officer holding a CLASS D or CLASS G license and a Seaport Security Officer certificate, who is acting as an agent of the seaport's federally designated Facility Security Officer (FSO), to detain a person believed to be trespassing in a designated seaport restricted access area until a law enforcement officer arrives on scene. Such certified Seaport Security Officer is required to call immediately for the assistance of a law enforcement officer upon detaining a suspect, and he or she may only take the suspect into custody and detain such suspect in a reasonable manner for a reasonable length of time. In addition, the PCB provides protection for the Seaport Security Officer from criminal or civil liability for false arrest, false imprisonment, and unlawful detention.

Under current Florida law, the Seaport Security Officer would be entitled to protection from liability only if the period of custodial detention lasts no longer than the period of time for which the officer has probable cause to take into custody and detain. Furthermore, if a judicial determination is made that the Seaport Security Officer detained a suspect in an unreasonable manner or for an unreasonable period of time, protection from liability may be lost.

Security Identification Card

The PCB creates s. 817.021, F.S., causing the use of false information to attempt to or obtain a seaport security identification card to be a felony. This provides a penalty not included under previous statutes.

C. SECTION DIRECTORY:

Section 1. Creates s. 311.111, F.S., authorizes the use of restrictive and non-restricted designations by seaport directors on seaport property and in seaport security plans.

Section 2. Amends s. 311.12, F.S., subsections 2 and 4, providing for the use of risk assessments in the formulation of seaport security plans; requiring the department of Law Enforcement to provide a report with 30 days of inspection; defining the appeals process for disputed findings in the seaport inspection report.

Section 3. Creates s. 311.12, F.S., subsection 7, provides a misdemeanor penalty for carrying concealed weapons inside a seaport's restricted areas.

Section 4. Creates s. 311.12, F.S., subsection 8, provides for the establishment of the Seaport Security Standards Advisory Council under the Office of Drug Control.

Section 5. Creates s. 311.121, F.S., authorizing governmental seaports to require private security forces to be certified as Florida Seaport Security Officers; providing for their certification; providing their qualifications; providing for the development of a standard curriculum and training.

Section 6. Creates s. 311.122, F.S., authorizing seaport director to create a Seaport Law Enforcement Agency.

Section 7. Creates s. 311.123, F.S., establishing a Maritime domain security awareness training program.

Section 8. Creates s. 311.124, F.S., authorizing a certified Seaport Security Officer, under certain circumstances, to take into custody and detain a person he or she has probable cause to believe is trespassing in a designated restricted access area of a seaport; providing that such detention must only be done in a reasonable manner and for a reasonable amount of time; requiring the Seaport Security Officer to immediately summon a sworn law enforcement officer; providing protection from liability.

Section 9. Creates s. 817.021, F.S., provides a felony penalty for using false information to obtain or attempt to obtain a seaport security identification card.

Section 10. Provides that the provisions of the PCB shall take effect July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See the Fiscal Comments section below.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See the Fiscal Comments section below.

D. FISCAL COMMENTS:

The PCB does not incur any additional costs to Florida's seaports. The seaport operators are given additional tools to reduce expenditures by designating unrestricted areas lowering credentialing cost to tenants and basing the seaport security inspection process solely on the standards as set forth in the statewide minimum seaport security standards and the Maritime Transportation Security Act. Any additional cost to seaports may come in the form of non-mandatory security recommendations by the Department of Law Enforcement that should be incorporated by the seaports.

The PCB is permissive to seaport authorities and governing boards with regard to requiring certified Seaport Security Officers. However, there may be potential cost savings to governmental seaports given the ability to design an optimum security force mix of sworn and non-sworn law enforcement officers and certified Seaport Security Officers.

A governmental seaport electing to require Seaport Security Officer Certification, there will be an undetermined cost associated with providing additional training for certification. This cost will likely be borne by the individual applicant seeking upgraded skills and certification. The impact to private sector security agency employers seeking higher skill level security officers is also currently unknown.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this PCB does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

B. RULE-MAKING AUTHORITY:

No additional grant of rulemaking authority is required to implement the provisions of this PCB.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

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A bill to be entitled
An act relating to seaport security; amending s. 311.12,
F.S.; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 311.111, Florida Statutes is created to
read:

311.111 Security area designations; access requirements,
authority.-- Each seaport authority or governing board of a
seaport identified in s. 311.09 which is subject to the statewide
minimum seaport security standards in s. 311.12, shall designate
and clearly mark on the seaport premises and in the seaport
security plans, the following security area designations, access
requirements and corresponding security enforcement
authorizations including, but not limited to, the prohibition of
concealed weapons and other contraband material:

(1) Unrestricted, public access areas, open to the general
public without a seaport identification card other than that
required as a condition of employment by a seaport director.

(2) Restricted public access areas, open to the public for
a specific purpose via restricted access, and open to individuals
working on the seaport, seaport employees or guests who have
business with the seaport. Any person found in these areas
without the proper level identification card will be subject to
the trespass provisions of sections 810.08, 810.09, and this
chapter. All persons and objects in these areas are subject to
search by an on duty sworn state certified law enforcement
officer, a Class D seaport officer certified under Maritime
Transportation Security Act guidelines or an employee of the

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seaport security force certified under the Maritime
Transportation Security Act guidelines.

(3) Restricted access areas, open only to individuals
working on the seaport, seaport employees or guests who have
business with the seaport. Any person found in these areas
without the proper level identification card will be subject to
the trespass provisions of sections 810.08, 810.09, and this
chapter. All persons and objects in these areas are subject to
search by an on duty sworn state certified law enforcement
officer, a Class D seaport officer certified under Maritime
Transportation Security Act guidelines or an employee of the
seaport security force certified under the Maritime
Transportation Security Act guidelines.

(4) Secured, restricted access areas, open only to
individuals working on the seaport, seaport employees or guests
who have business with the seaport, that are secured at each
point of access by a Maritime Transportation Security Act
certified Class D security guard, a sworn state certified law
enforcement officer, or a Maritime Transportation Security Act
certified employee of the port's security force at all times.
Any person found in these areas without the proper level
identification card will be subject to the trespass provisions of
sections 810.08, 810.09, and this chapter. All persons and
objects in these areas are subject to search by an on duty Class
D seaport officer certified under Maritime Transportation
Security Act guidelines, sworn state certified law enforcement
officer, or an employee of the seaport security force certified
under the Maritime Transportation Security Act guidelines.

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(5) During a high terrorist threat level period designated by the United States Department of Homeland Security or the Florida Department of Law Enforcement, or during an emergency declared by the seaport security director of a port due to events applicable to that particular port, the management or controlling authority of the port may temporarily designate any part of the port property as a restricted access area. The duration of such designation is limited to the period when the high terrorist threat level or port emergency exists. This subsection does not limit the power of the managing or controlling authority of a seaport to designate any port property as a restricted access area as otherwise provided by law.

Section 2. Subsection (2), and paragraph (b) of subsection (4) of section 311.12, Florida Statutes, are amended to read:

311.12 Seaport security standards; inspections; compliance; appeals.--

(2) (a) Each seaport identified in s. 311.09 shall maintain a security plan to provide for a secure seaport infrastructure specific to his or her seaport. Commencing January 1, 2007, and every five years thereafter, the Seaport Director of each seaport with the assistance of the Regional Domestic Security Task Force and in conjunction with the United States Coast Guard, will revise their security plan based on the results of continual, quarterly assessments by the seaport director of security risks and possible risks related to terrorist activities and relating to the specific and identifiable needs of the seaport which assures that the seaport is in substantial compliance with the statewide minimum standards established pursuant to subsection (1).

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87 (b) Each plan adopted or revised pursuant to this
 88 subsection shall be inspected ~~must be reviewed~~ and approved by
 89 the Office of Drug Control and the Department of Law Enforcement
 90 based solely upon the standards as set under the Maritime
 91 Transportation Security Act as revised July 2003 Title 33, Part
 92 105, section 105.305 and the statewide minimum standards
 93 established pursuant to subsection (1). All such seaports shall
 94 allow unimpeded access by the Department of Law Enforcement to
 95 the affected facilities for purposes of plan or compliance
 96 inspections or other operations authorized by this section.

97 (c) Each seaport security plan shall ~~may~~ establish
 98 unrestricted and restricted access areas within the seaport
 99 consistent with the requirements of the statewide minimum
 100 standards and the provisions of s.311.111. In such cases, a
 101 Uniform Port Access Credential Card, authorizing restricted-area
 102 access, shall be required for any individual working within or
 103 authorized to regularly enter a restricted access area and the
 104 requirements in subsection (3) relating to criminal history
 105 checks and employment restrictions shall be applicable only to
 106 employees or other persons working within or authorized to
 107 regularly enter a restricted access area. Every seaport security
 108 plan shall set forth the conditions and restrictions to be
 109 imposed upon others visiting the port or any restricted access
 110 area sufficient to provide substantial compliance with the
 111 statewide minimum standards. As determined by the seaport
 112 director's most current quarterly risk assessment report, any
 113 restricted area with a potential human occupancy of 50 persons or
 114 more, cruise terminal or business operation that is adjacent to
 115 an unrestricted public access area shall be protected from the

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most probable and creditable terrorist threat to human life by the use of like or similar standards as set forth in United States Department of Defense Antiterrorism Standard for Buildings, Unified Facilities Criteria 4-010-0.

(d) Within 30 days after the completion of the seaport's security plan inspection by the Florida Department of Law Enforcement, it shall be delivered to the United States Coast Guard, Regional Domestic Security Task Force and the Domestic Security Oversight Council.

(e) It is the intent of the Legislature that Florida's seaports adhere to security practices that are consistent with risks assigned to each seaport through the risk assessment process established in this section, therefore, the Florida Department of Law Enforcement shall inspect every seaport within the state to determine if all security measures adopted by the seaport are in compliance with the standards set forth in this chapter and shall submit the department's findings in a report within 30 days of the inspection to the Domestic Security Oversight Council for review and the United States Coast Guard for review with requests to the Coast Guard for any necessary punitive action.

(f) Notwithstanding the provisions of chapter 120, a seaport may appeal the findings relating to s. 311.12 in any Florida Department of Law Enforcement inspection report to the Domestic Security Oversight Council for review and mediation. The Domestic Security Oversight Council will establish a review process and may only review those findings under s. 311.12 that are in specific dispute by the seaport. In reviewing the disputed findings, the council may concur with the department,

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concur with the seaport, or recommend corrective action to the seaport. Findings of the council are considered final.

(4)(b) The Office of Drug Control and the Commissioner, Department of Law Enforcement may modify or waive any physical facility or other requirement contained in the statewide minimum standards for seaport security upon a finding or other determination that the purposes of the standards have been reasonably met or exceeded by the seaport requesting the modification or waiver. Alternate means of compliance may not in anyway diminish the safety or security of the seaport and shall be verified through an extensive risk analysis preformed by the port director. Waivers shall be submitted in writing with supporting documentation to the Office of Drug Control and the Department of Law Enforcement. The Office of Drug Control and the Department of Law Enforcement shall have 90 days to jointly grant the waiver or reject the waiver in whole or in part. Waivers not granted within 90 days or jointly rejected shall be submitted by the seaport to the Domestic Security Oversight Council for consideration. The Domestic Security Oversight Council shall grant the waiver or reject the waiver in whole or in part. The decision of the Domestic Security Oversight Council shall be considered final. Waivers submitted for standards as set forth in F.S. 311.122 may not be granted for percentages below 10 percent. Such modifications or waivers shall be noted in the annual report submitted by the Department of Law Enforcement pursuant to this subsection.

Section 3. Subsection (7) is added to section 311.12, Florida Statutes, to read:

311.12 Seaport security standards.--

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(7) It shall be a misdemeanor of the first degree punishable under s. 790.25 for any person other than active duty certified federal and state law enforcement personnel to have in their possession or in a vehicle in their possession, a concealed weapon, while on seaport property in a designated restricted area.

Section 4. Subsection (8) of section 311.12, Florida Statutes, is created to read:

(8) (a) Commencing on January 15, 2007 and every five years thereafter a review of the statewide minimum standards for seaport security as contained in s. 311.12(1) (a) shall be preformed under the Office of Drug Control within the Executive Office of the Governor as set forth below.

(b) The Office of Drug Control shall convene a Seaport Security Standards Advisory Council as defined in F.S. 20.03 to review the statewide minimum standards for seaport security for applicability to current narcotics and terrorism threats to Florida's seaports. All sources of information allowed by law shall be used in assessing the applicability of the standards.

(c) The Seaport Security Standards Advisory Council shall be chaired by a designee from the Office of Drug Control and the members shall consist of the following: two Seaport Directors appointed by the Governor; two Seaport Security Directors appointed by the Governor; one designee from the Department of Law Enforcement; the Department of Transportation Director Office of Motor Carrier Compliance; a designee from the Attorney General's Office; one designee from the Department of Agriculture; one designee from the Office of Trade, Tourism and Economic Development and as an ex-officio members representatives

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from the United States Coast Guard. Members shall serve for a term of 5 years.

(d) Seaport Security Standards Advisory Council members shall serve without pay; however, state per diem and travel allowances may be claimed for attendance of officially called meetings as provided by s. 112.061.

(e) The Seaport Security Standards Advisory Council shall meet upon the call of the chair and at least once every five years. Recommendations and findings of the Council shall be delivered to the Governor, the Speaker of the Florida House of Representatives, and the President of the Florida Senate.

Section 5. Section 311.121, Florida Statutes, is created to read:

311.121 Qualifications, training, and certification of licensed security officers at Florida seaports.—

(1) It is the intent of the Legislature that seaports in this state be able to mitigate operational security costs without reducing security levels, by employing a combination of certified law enforcement officers and certified private security service officers. The Florida Department of Law Enforcement shall adhere to this intent in the approval and certification process for seaport security required under s. 311.12.

(2) The authority or governing board of each seaport identified under s. 311.098 which is subject to the statewide minimum seaport security standards established in s. 311.12, shall require that a candidate for certification as a seaport security officer:

(a) Have received a Class D license as a security officer under chapter 493;

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(b) Have successfully completed the certified training curriculum for a Class D license or have been determined to have the equivalent experience, established by rule, by the Department of Agriculture and Consumer Services; and

(c) Have completed the training or training equivalency and testing process established by this section for becoming a certified seaport security officer.

(3) (a) The Seaport Security Officer Qualification, Training and Standards Coordinating Council is hereby created under the Florida Department of Law Enforcement.

(b) The Commissioner of the Florida Department of Law Enforcement will appoint 12 members to the council which shall include the Seaport Administrator of the Department of Law Enforcement, the Chancellor of the Community College System, the Director of the Division of Licensing of the Department of Agriculture and Consumer Services, the Administrator of the Florida Seaport Transportation and Economic Development Council, two seaport security directors from seaports designated under s. 311.09, one director of a state law enforcement academy, one representative of a local law enforcement agency, two representatives of contract security services, one representative of the Division of Driver Licenses of the Department of Highway Safety and Motor Vehicles, and one representative of the United States Coast Guard.

(c) Members holding specified positions shall serve for the duration of their employment or appointment.

(d) Other representative members shall serve 4 year terms, except the initial appointment for the representative of a local law enforcement agency, one representative of a contract security

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261 agency, and one seaport security director from a seaport
 262 designated in s. 311.09, will be 2 years.

263 (e) Council members shall serve without pay; however, state
 264 per diem and travel allowances may be claimed for attendance of
 265 officially called meetings as provided by s. 112.061.

266 (f) The council shall identify the qualifications, training
 267 and standards regarding seaport security officer certification
 268 and recommend a curriculum for the seaport security officer
 269 training program which includes no less than 218 hours of initial
 270 certification training, and which conforms to or exceeds model
 271 courses approved by the Federal Maritime Act under Section 109 of
 272 the Federal Maritime Transportation Security Act of 2002 for
 273 facility personnel with specific security duties.

274 (g) The council may recommend training equivalencies that
 275 may be substituted for portions of the required training.

276 (h) The council shall recommend a continuing education
 277 curriculum of no less than 8 hours of additional training per
 278 each annual licensing period.

279 (i) The Chancellor of the Community College System shall
 280 serve as chair of the council.

281 (j) The council shall meet upon the call of the chair, and
 282 at least once a year to update or modify curriculum
 283 recommendations.

284 (4) (a) The Department of Education shall develop the
 285 curriculum recommendations and hourly specifications of the
 286 Seaport Security Officer Qualifications, Training, and Standards
 287 Coordinating Council into initial and continuing education and
 288 training programs for seaport security officer certification.

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289 (b) Such training programs shall be used by schools
 290 licensed under s. 493.6304, and each instructor providing
 291 training must hold a Class D license pursuant to s. 493.6301.
 292 (c) A seaport authority or other organization involved in
 293 seaport-related activities may apply to become a school licensed
 294 under s. 493.6304.
 295 (d) The training programs shall include proficiency
 296 examinations to be administered and passed by each certification
 297 candidate who successfully completes the required hours of
 298 training or provides proof of authorized training equivalencies.
 299 (e) A certification candidate must be provided with the
 300 list of authorized training equivalencies in advance of training,
 301 however, the candidate must successfully complete 20 hours of
 302 study specific to Florida Maritime Security and pass the related
 303 portion of the proficiency exam.
 304 (5) Seaport security officer certificates shall be provided
 305 by the Department of Agriculture and Consumer Services for
 306 issuance by a school licensed under s. 493.6304 and such school
 307 may issue the certificate to an applicant who has successfully
 308 completed the training program. A school shall notify the
 309 Division of Licensing within the department upon the issuance of
 310 each certificate. The notification must include the name and
 311 Class D license number of the certificate holder and a copy of
 312 the certificate. The department shall place the notification
 313 with the licensee's file. Notification may be made through an
 314 electronic or paper format pursuant to instruction of the
 315 Department of Agriculture and Consumer Services.
 316 (6) (a) Upon completion of the certification process, a
 317 person holding a Class D license must apply for a revised license

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318 pursuant to s. 493.6107(2), which license shall state that the
319 licensee is certified as a seaport security officer.

320 (b) A person who has been issued a seaport security officer
321 certificate is authorized to perform duties specifically required
322 of a seaport security officer.

323 (c) The certificate is valid for the duration of the
324 seaport security officer's Class D license and shall be renewed
325 upon renewal of that license.

326 (d) The certificate will become void if the seaport
327 security officer's Class D license is revoked or allowed to lapse
328 for more than 1 year, or if the certificate holder licensee fails
329 to complete the annual continuing education requirement prior to
330 expiration of the Class D license.

331 (e) Renewal of certification following licensure revocation
332 or a lapse of longer than 1 year requires, at a minimum, 20 hours
333 of recertification training and reexamination of the applicant.

334 Section 6. Section 311.122, Florida Statutes, is created to
335 read:

336 311.122 Seaport Law Enforcement Agency; authorization;
337 requirements; powers; training.--

338 (1)(a) Each seaport in the state is authorized to create a
339 Seaport Law Enforcement Agency for its facility, which authority
340 in no way removes the ability of the seaport to contract with
341 local governments or law enforcement agencies to comply with the
342 security standards required by this chapter.

343 (b) Each Seaport Law Enforcement Agency shall meet all of
344 the standards set by the state under certified law enforcement
345 guidelines and requirements and be certified as defined in s.
346 943, F.S.

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(c) Regardless of origin, a minimum of thirty percent of each Seaport Law Enforcement Agency shall be sworn state certified law enforcement officers with additional Maritime Transportation Security Act seaport training; a minimum of thirty percent of on-duty personnel shall be sworn state certified law enforcement officers with additional Maritime Transportation Security Act seaport training; and at least one on-duty supervisor must be a sworn state certified law enforcement officer with additional Maritime Transportation Security Act seaport training.

(d) For the purposes of this chapter where applicable Seaport Law Enforcement Agency officers shall have the same powers as university police officers as provided in s. 1012.97, F.S.; however, such powers do not extend off seaport property except in connection with an investigation initiated on seaport property or in connection to an immediate, eminent threat to the seaport.

(e) For the purposes of this chapter, sworn state certified seaport security officers shall have the same traffic law enforcement powers as university, community college and airport police officers have under the provisions of s. 316.640(1)(I)-(II), F.S., with respect to seaport property.

(f) Certified seaport security officers shall have the authority to immediately tow any vehicle parked illegally as designated by pre-posted signs or during an emergency as deemed necessary to maintain seaport security.

Section 7. Section 311.123, Florida Statutes, is created to read:

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311.123 Maritime domain security awareness training
program.--

(1) The Florida Seaport Transportation and Economic
Development Council, in conjunction with the Florida Department
of Law Enforcement and the Office of Drug Control within the
Executive Office of the Governor, shall create a maritime domain
security awareness training program to instruct all personnel
employed within a seaport's boundaries about the security
procedures required of them for implementation of the seaport
security plan.

(2) The training program curriculum must include security
training required pursuant to 33 C.F.R. Part 105 and must be
designed to enable the seaports in this state to meet the
training, drill, and exercise requirements of 33 C.F.R. Part 105
and individual seaport security plans, and to comply with the
requirements of s. 311.12 relating to security awareness.

Section 8. Section 311.124, Florida Statutes, is created to
read:

311.124 Trespassing; detention by a certified seaport
security officer.--

(1) Any Class D or G seaport security officer certified
under the Maritime Transportation Security Act guidelines or any
employee of the seaport security force certified under the
Maritime Transportation Security Act guidelines, who has probable
cause to believe that a person is trespassing pursuant to the
provisions of sections 810.08, 810.09, and this chapter, in a
designated restricted area pursuant to s. 311.06 [shall] [is
authorized to] detain such person in a reasonable manner for a
reasonable time pending the arrival of a law enforcement officer,

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404 and such action shall not render the security officer criminally
 405 or civilly liable for false arrest, false imprisonment, or
 406 unlawful detention.

407 (2) Upon detaining a person for trespass, the security
 408 officer shall immediately call a certified law enforcement
 409 officer to the scene.

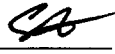
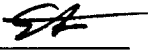
410 Section 9. Section 817.021, Florida Statutes, is created to
 411 read:

412 817.021 It shall be a felony of the third degree punishable
 413 under s. 775.082 and s. 775.083, to willfully and knowingly
 414 provide false information in an attempt to or in obtaining a
 415 seaport security identification card.

416 Section 10. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

PCB #: PCB DS 06-02 Disaster Preparedness, Response, and Recovery
SPONSOR(S): Domestic Security Committee
TIED PCBS: IDEN./SIM. PCBS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Domestic Security Committee		Wiggins 	Newton 
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

Because of the very active 2004 and 2005 hurricane seasons, specifically, the devastation left from Hurricane Wilma and Katrina, a number of issues were raised across Florida on disaster preparedness, response and recovery. In order to better understand the issues specific to Florida's ability to deal with and recover from disasters, the Domestic Security Committee and the Health Care General Committee held two joint committee meetings to hear testimony and take comments on disaster-related issues. In conjunction with the Health Care General Committee's PCB on special needs sheltering, the Domestic Security Committee has addressed areas of concern related to emergency supplies, availability of motor fuels and disaster preparedness.

The PCB creates the Florida Disaster Supplier Program Council (Council), consisting of seven members and composed of one county emergency management director from each of the seven Division of Emergency operational regions as designated by the Florida Emergency Preparedness Association. This council is tasked with developing specific criteria for the voluntary Florida Disaster Supplier Program by February 1, 2007. The purpose of the program is to facilitate access to supplies during an emergency and to inform state residents of the availability of crucial supplies before, during and after a disaster.

The PCB creates the Florida Disaster Motor Fuel Supplier Program within the Department of Community Affairs. The Florida Disaster Motor Fuel Supplier Program will allow motor fuel retail outlets doing business in the state to participate in a network of emergency responders who will be authorized to provide fuel supplies and services to government, medical, critical infrastructure and other responders, as well as the general public in a disaster.

The PCB requires all multi-family dwellings that are at least 75 feet tall to have at least one elevator that is capable of operation on an alternative generated power source available to residents for a number of hours each day over a 5-day period following a disaster.

The PCB specifies that the statewide public disaster awareness campaign include information on personal responsibility for individual citizens for up to 72 hours following a disaster. The campaign must also promote statewide disaster plans, evacuation routes, fuel suppliers, sheltering information and materials must be available in alternative formats and mediums.

The PCB is effective July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes - The PCB allows for motor fuel retail outlets that participate in the Florida Disaster Motor Fuel Supplier Program may receive a state tax credit of up to 25 percent of the value of a purchase of equipment and installation required by this program.

Safeguard Individual Liberty - The PCB provides for the creation of a program that will empower businesses to operate during a disaster. The programs will provide options to individuals when obtaining supplies and fuel to maintain normalcy before, during and after a disaster strikes.

Promote Personal Responsibility - The PCB specifies that the intensive public educational campaign focus on emergency preparedness issues promoting self sufficiency of citizens for up to 72 hours following a disaster. It encourages the public to make arrangements for the care of individuals with special needs or in need of assistance, to be familiar with evacuation routes, disaster plans, sheltering information, and fuel and consumable suppliers.

Empower Families - The PCB decreases the burdens of government on families by giving them options to provide needed supplies for their families during a disaster. It provides families choices when making crucial decisions that will affect families' safety and well being during a disaster. It decreases the dependence of families upon government support or assistance by educating the public about disaster preparedness. The public awareness program will specifically encourage families to prepare for disasters and review evacuation plans which increases family stability.

Maintain Public Security - The PCB increases physical security of citizens and their property by providing citizens with options during disasters. These options help families secure their homes and businesses. The Florida Disaster Motor Fuel Supplier Program assists health care facilities by enabling them to remain operational during a disaster and by assisting critical care workers to obtain fuel so they can return to work. If health care centers remain operational, then law enforcement can be devoted to public security and disaster needs such as recovery and rescue.

B. EFFECT OF PROPOSED CHANGES:

Florida Disaster Supplier Program and the Florida Disaster Supplier Program Council:

Current Situation –

At present, supplies to communities are provided through government agencies and private assistance following a disaster. Businesses that are able to maintain power during a disaster or have an alternate power source may sell their goods and services. There are no identified State Emergency Response Team (SERT) businesses that supply needed supplies and fuel to the public and SERT members following a disaster. There are no provisions that allow SERT members and critical care health providers to acquire fuel during a disaster.

Proposed Situation –

The Florida Disaster Supplier Program is established to make recommendation to the Governor and Legislature on the creation of a voluntary Florida Disaster Supplier Program. The Council will consist of seven members from each of the Division of Emergency Management operational regions and shall be established under the Department of Community Affairs.

The Council is charged with surveying the districts to anticipate the cost and logistics of implementing the Florida Disaster Supplier program. Their analysis will include anticipated fees collected and anticipated expenditures to run the program on the state and local level. The program will be voluntary to local businesses supplying crucial supplies such as pharmaceuticals, food and water, building supplies, and ice following a disaster or an emergency. The suppliers may be granted permission to operate before and after any curfews that may follow a disaster or an emergency. The businesses will be certified to participate in the program through a process recommend by the Council. Participating businesses may display a SERT logo to indicate their participation in the supplier program.

A business does not need to participate in the supplier program in order to sell its goods and services after a disaster. Businesses that choose not to participate in the supplier program and are able to locate an alternate power source or were able to maintain power may open for business. The Council will submit a report on the development and implementation of the program to the Governor, the Speaker of the Florida House of Representatives, and the President of the Florida Senate, no later than February 1, 2007.

Motor Fuel Dispensing Facilities:

Current Situation -

Motor fuel terminal facilities that supply motor fuel to retail outlets around the state are not required to have an auxiliary source of electrical power. A lack of emergency electrical power in retail outlets creates a serious deficiency in the available mobile fuel supplies prior, during, and after a disaster has occurred. Fuel remaining in the storage tanks of retail outlets is inaccessible until primarily electrical power is restored. The lack of available mobile fuel directly affects the evacuation, response, and recovery efforts in a disaster area.

Proposed Situation -

The PCB creates s. 526.143, F.S., so that each motor fuel terminal dispensing facility is required to operate its distribution loading racks using alternative generated power for a minimum of 72 hours following a disaster. The emergency auxiliary equipment must be operational 36 hours after the disaster. All newly constructed or substantially renovated motor fuel retail outlets must also have an appropriate transfer switch capable of operating all fuel pumps using an alternative generated power source. Local and state required inspections of auxiliary equipment must be completed and proof of those inspections must be available for a facility to be deemed in compliance and to participate in the fuel supplier program.

By December 31, 2006, all motor fuel retail outlets that are within one-half mile of an interstate highway or a state or federally designated evacuation route, must be pre-wired with an appropriate transfer switch capable of operating all required equipment using an alternate generated power source within the following specifications based on populations:

- 16 or more fueling positions located in counties with a population of 300,000 or more
- 12 or more fueling positions located in counties with a population of 100,000 to 299,999
- 8 or more fueling positions located in counties with a population of 99,999 or less residents

Local and state required inspections of auxiliary equipment must be completed and proof of those inspections must be available for a facility to be deemed in compliance and to participate in the fuel supplier program.

Florida Disaster Motor Fuel Supplier Program:

The PCB creates the Florida Disaster Motor Fuel Supplier Program within the Department of Community Affairs to allow motor fuel retail outlets, doing business in the state, to participate in a network of emergency responders who are authorized to provide fuel supplies and services.

Participation in the program will require pre-certification of preparedness to the Division of Emergency Management or the local county emergency management director. Requirements for pre-certification shall be established by the Division of Emergency Management or the local county emergency management director no later than July 1, 2007. Businesses that are pre-certified will be issued a State Emergency Response Team logo for public display to alert responders and the public that the business is capable of assisting as needed following a disaster or an emergency. These business that are pre-certified must be able to provide fuel dispensing services to other SERT members within 36 hours after a disaster has occurred or demonstrate the ability to make services available as needed.

Businesses that are participating in the Florida Disaster Motor Fuel Supplier Program may be open after curfew. SERT members and other local emergency personnel may need to travel after curfew but must produce the required identification when required. SERT members may request priority when purchasing fuel, but business owners establish purchase protocol.

The motor fuel outlets that choose to participate in the Florida Disaster Motor Fuel Supplier Program may receive a tax credit from the Florida Department of Revenue of up to 25 percent of the value of the purchase of equipment and installation required to meet certification standards established by the Division of Emergency Management's local county emergency management director. The tax credit may not exceed \$15,000.

By March 1, 2007, the Department of Environmental Protection Energy Office shall provide a review and report to the Legislature which includes the status of the motor fuel supply program and a list of participating retail fuel outlets; pursuant to the comprehensive emergency management plan.

Access to Residential Multi-Family Dwellings During Disasters:

Current Situation -

According to the 2001 Florida Building Code, section 1016.2, and 2004 Florida Building Code, section 1006.2, multi-family residential high-rise buildings (defined as buildings having occupied floors located more than 75 ft. above the lowest level of fire department vehicle access) must have emergency system that shall provide for emergency elevator operation and lighting. The 2004 building code intends for the emergency use of the elevator for evaluation, medical, and rescue assistance only.

Proposed Situation -

The PCB will require that all multifamily dwellings as defined in the 2004 Florida Building Codes must have at least one elevator that is capable of operating on an alternate generated power source for a number of hours each day over a 5-day period following a disaster. These elevator operations are to provide non evaluating persons with limited mobility, access to their residence during time of emergency. The alternative generated power must be capable of powering any connected fire alarm in the building which controls elevator operations. The alternative generated power must also be able to provide all required emergency lighting. Each building is responsible for implementing the installation of the alternate generated power source for emergency purposes. Proof of the engineering plan and proof of installation is required to be submitted by the local building inspectors to the emergency management director of the county for the building to be in compliance.

Elevator Inspections:

Current Situation -

Certified inspectors that conduct annual elevator inspections must confirm that all installed generators are in working order and that a generator key is present in the lockbox at or near the installed generator. If the building does not have an installed generator the inspector must confirm that the

appropriate pre-wiring and switching capabilities are operational and that there is a contract for alternate generated power.

Proposed Situation -

The PCB does not change the inspections that are currently conducted on elevators. Elevators already need to be operational in case of a power failure or fire. The PCB is specifying that a generator or a contingent plan for alternate power be available for residents of buildings for a number of hours a day for five days following a disaster. The proposed change will provide a person with limited mobility access to their residence until the restoration of primary electrical power.

Public Awareness Campaign:

Current Situation -

Section 252.35(2) (i), F.S., requires the institution of a statewide public educational campaign on emergency preparedness.

Proposed Situation -

Although the Division of Emergency Management already distributes materials for disaster preparedness this PCB revises the s. 252.35(2)(i), F.S., to specify information that needs to be included in the public awareness campaign. The statewide public awareness campaign must address personal responsibility for individual citizens for up to 72 hours following a disaster. The public awareness campaign must promote statewide disaster plans, evacuation routes, fuel suppliers and sheltering information. The educational materials must be available in alternative formats and mediums to ensure that they are accessible to persons with disabilities. The Division of Emergency Management and the Department of Education are charged with providing an outreach program to individuals, who have limited English speaking skills, or are in need of assistance but are not defined under special needs.

C. SECTION DIRECTORY:

Section 1. Creates s. 252.63, F.S., establishing the Florida Disaster Supplier Program Council, and the Florida Disaster Supplier Program, providing for its composition, governance, and duties.

Section 2. Creates s. 526.143, F.S., is establishing criteria for alternate generated power capacity for motor fuel dispensing facilities.

Section 3. Creates s. 526.144, F.S., establishing the Florida Disaster Motor Fuel Supplier Program.

Section 4. Creates s. 553.509(4), F.S., establishing criteria for alternate generated power source for residential multifamily dwellings providing emergency vertical accessibility.

Section 5. Amends s. 252.35(2)(i), F.S., and creates s. 252.35(2)(j), F.S., providing for additional information to be included in the Division of Emergency Management's Public Awareness Campaign.

Section 6. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The impact of the tax credit on state revenues is indeterminate due to an unknown number of participants.

2. Expenditures:

As of February 28, 2006, the Department of Community Affairs had not provided final calculation on costs.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Council will be surveying local districts and local stakeholders to estimate the anticipated revenue generated by the Florida Supplier Program on the local level. The estimated revenue will be included in the Council's report to the Governor, the Speaker of the Florida House of Representatives, and the President of the Florida Senate by February 1, 2007.

2. Expenditures:

The Council will be surveying local districts and local stakeholders to estimate the anticipated costs of the Florida Supplier Program on the local level. Those costs will be included in the Council's report to the Governor, the Speaker of the Florida House of Representatives, and the President of the Florida Senate no later than February 1, 2007.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The direct economic impact on the private sector will include the purchase and installation of a transfer switch for each building unit or the purchase and installation of a generator. The transfer switch must be able to accept an alternate power source. The cost of the transfer switch is approximately \$6,000 to \$10,000 depending on the specifications of the building. The purchase of a generator is approximately \$300 to \$500 per kilowatt¹. Cost estimates will vary depending on the size and needs of each building. Businesses can choose to contract with a service provider if they do not want to incur the cost of purchasing a generator. The service contract costs will vary depending on the need, size, and specification of the building.

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None

B. RULE-MAKING AUTHORITY:

NA

C. DRAFTING ISSUES OR OTHER COMMENTS:

NA

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED PCB CHANGES

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A bill to be entitled
An act relating to disaster preparedness response and
recovery; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 252.63, Florida Statutes, is created to
read:

252.63 Florida Disaster Supplier Program Council.--

(1) The Florida Disaster Supplier Program Council is
created under the Department of Community Affairs.

(a) The Council shall consist of 7 members, comprised of
one county emergency management director from each of the seven
Divisions of Emergency Management operational regions, as
designated by the Florida Emergency Preparedness Association. The
council shall make recommendations for a voluntarily local
program to be established as the Florida Disaster Supplier
Program. The intent of the Florida Disaster Supplier Program
shall be to establish statewide oversight of the availability and
provision of necessary supplies prior to, during and following a
state of emergency or natural or manmade disaster or catastrophe.
The disaster supplier program shall allow businesses to
voluntarily participate in the program and provide the sale of
emergency use supplies and services before, during and following
an emergency or disaster under the conditions set forth in this
section. The Disaster Supplier Program Council shall recommend
guidelines and administration standards for participating
counties. Participation in the program shall be at the option of
each county governing body within the state. Each county choosing

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29 to participate in the program shall be responsible for
30 administering the program within that county.

31 (b) The Florida Disaster Supplier Program shall be designed
32 to in no way interfere with the normal and ongoing commerce
33 occurring in any political subdivision of the State. The intent
34 of the program is to assist in the rapid recovery of an area
35 affected by a manmade or natural disaster and to stimulate local
36 economies immediately in a post disaster recovery. Additionally,
37 this program shall be designed to provide the public with
38 alternative access to certain commodities as recommended by the
39 council.

40 (c) The members of the council shall elect a chair and a
41 vice chair from among their membership. The chair shall preside
42 at all meetings of the council.

43 (d) The council shall meet at the call of the chair or at
44 the request of a majority of its membership.

45 (e) Members shall serve for the duration of the existence
46 of the council. A vacancy on the council shall be filled by the
47 chair according to the original membership stipulations until the
48 council is terminated.

49 (f) Members of the council shall serve without
50 compensation, but shall be entitled to per diem and travel
51 expenses as provided in s. 112.061, F.S., while engaged in the
52 performance of their official duties.

53 (2) Duties and responsibilities.--Duties and
54 responsibilities of the council shall include, but not be limited
55 to, recommending to the division:

56 (a) State disaster preparedness criteria necessary for
57 implementation of the program.

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(b) Methodology for granting access to participating business for means of operating, supplying and staffing of their business units in times of emergency when and where feasible under the existing emergency conditions.

(c) A statewide system of certification for disaster suppliers in the following categories:

pharmaceutical, food and water, building supplies, ice and other suppliers as may be necessary.

(d) The possible assessment of an annual program membership fee for businesses voluntarily seeking to obtain certification as a state disaster supplier under the established program guidelines. The determination of the applicability or non-applicability of any fees shall include county surveys and input from business, industry, and state agencies enumerated to establish the requirements for any necessary fees. Any recommendation on fees shall be contained in the report required in Subsection (8).

(e) A State Emergency Response Team (SERT) logo that bears the name of the State and the type of supplies being provided by the supplier may be displayed by businesses participating in the voluntary program.

(3) Upon the recommendations of the council, certification of a business requesting to participate in the program shall be conducted through County Emergency Managers or designees as set forth by the county's elected governing body. Participating counties shall use the certification standards as developed by the Florida Disaster Supplier Program Council.

(4) Collection of Program Membership Fees. If applicable, methods for collecting program membership fees shall be

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determined by the Council. If applicable, program membership fees collected shall be used in whole or part to recover the administrative cost of the program and as may be recommended by the Council.

(5) Use of Program Membership Fees. -- If applicable, program membership fees shall be used by the participating counties and State agencies as may be determined by the recommendations of the Council and provided by law.

(6) Report.--The Council shall submit a report on the development and implementation of the program to the Governor, the Speaker of the House of Representatives, and the President of the Senate no later than February 1, 2007. The report shall include recommendations for any needed legislation and recommended fees with respect to the program and its effect on the provision of supplies within the state during a state of emergency or natural or manmade disaster or catastrophe.

(7) TERMINATION.--The Council shall terminate on July 1, 2008.

Section 2. Section 526.143, Florida Statutes, is created to read:

526.143 Alternate generated power capacity for motor fuel dispensing facilities.--

(1) No later than December 31, 2006, each motor fuel terminal facility, as defined in s. 526.303, and wholesaler, as defined in s. 526.303, which sells motor fuel in this state must be capable of operating its distribution loading racks using an alternate generated power source for a minimum of 72 hours. Pending a post-disaster examination of the equipment by the operator to determine any extenuating damage that would render it

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116 unsafe to use, the facility must have such alternate generated
 117 power source available for operation no later than 36 hours after
 118 a major disaster, as defined in s. 252.34. Initial inspection for
 119 proper installation and operation shall be completed by a local
 120 building inspector, and verification of the inspection must be
 121 submitted to the local county emergency management director.
 122 Inspectors from the Department of Agriculture and Consumer
 123 Services shall perform a periodic visual inspection to assure
 124 that the emergency auxiliary electrical equipment is installed.
 125 Each facility shall perform annual inspections ensuring that the
 126 emergency auxiliary electrical generators are in good working
 127 order and show proof of those inspections in order to be deemed
 128 in compliance and to participate in the fuel supplier program.
 129 (2) Each newly constructed or substantially renovated motor
 130 fuel retail outlet, as defined in s. 526.303, for which a
 131 certificate of occupancy is issued on or after July 1, 2006,
 132 shall be pre-wired with an appropriate transfer switch, and
 133 capable of operating all fuel pumps, dispensing equipment, life-
 134 safety systems, and payment acceptance equipment using an
 135 alternate generated power source. As used in this subsection, the
 136 term "substantially renovated" means a renovation that results in
 137 an increase of greater than 50 percent in the assessed value of
 138 the motor fuel retail outlet. Local building inspectors shall
 139 include this equipment and operations check in the normal
 140 inspection process before issuing a certificate of occupancy. A
 141 copy of the certificate of occupancy shall be provided to the
 142 local county emergency management director upon issuance of such
 143 certificate. Each facility shall perform periodic inspections
 144 ensuring that the installed transfer switch or emergency

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auxiliary electrical generators is in good working order and show proof of those inspections to the county emergency management director in order to be in compliance and to participate in the fuel supplier program.

(3) (a) No later than December 31, 2006, each motor fuel retail outlet described in subparagraphs 1., 2., or 3., which is located within ½ mile proximate to an interstate highway or state or federally designated evacuation route must be pre-wired with an appropriate transfer switch and be capable of operating all fuel pumps, dispensing equipment, life-safety systems, and payment-acceptance equipment using an alternate generated power source:

1. A motor fuel retail outlet located in a county having a population of 300,000 or more which has 16 or more fueling positions.

2. A motor fuel retail outlet located in a county having a population of 100,000 or more, but fewer than 300,000 which has 12 or more fueling positions.

3. A motor fuel retail outlet located in a county having a population of fewer than 100,000 which has eight or more fueling positions.

(b) Installation of the wiring and transfer switch shall be performed by a certified electrical contractor. Each retail outlet that is subject to this subsection must keep a copy of the documentation of such installation on site or at its corporate headquarters. In addition, each retail outlet must keep a written statement attesting to the periodic testing and ensured operational capacity of the equipment. The required documents must be made available, upon request, to the Division of

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Emergency Management and the director of the county emergency management agency.

(4)(a) Subsections (2) and (3) apply to any self-service, full-service or combination self and full service motor fuel outlet regardless of whether the business is located on the grounds of, or is owned by, another retail business establishment that does not engage in the business of selling motor fuel.

(b) Subsections (2) and (3) do not apply to:

1. An automobile dealer;
2. A person who operates a fleet of motor vehicles; or
3. A person who sells motor fuel exclusively to a fleet of motor vehicles.

(5) If any provision of this section or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 3. Section 526.144, Florida Statutes, is created to read:

526.144 Florida Disaster Motor Fuel Supplier Program.--

(1) There is created the Florida Disaster Motor Fuel Supplier Program within the Department of Community Affairs. The Florida Disaster Motor Fuel Supplier Program will allow any motor fuel retail outlet doing business in the state to participate in a network of emergency responders to provide fuel supplies and services to government, medical, critical infrastructure, and other responders, as well as the general public, in a declared disaster, as described in s. 252.36(2). Participation in the program will require pre-certification of preparedness to provide

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emergency services by the Division of Emergency Management or the
local county emergency management director. Requirements for pre-
certification shall be established by the Division of Emergency
Management or the local county emergency management director no
later than July 1, 2007. Businesses that are pre-certified will
be issued a State Emergency Response Team logo for public display
to alert responders and the public that the business is capable
of assisting in an emergency. In counties with active programs,
the local county emergency management department shall be
primarily responsible for administering the program within that
county. In counties that do not have active programs, the
Division of Emergency Management shall have the authority to pre-
certify businesses as members of the State Emergency Response
Team and issue appropriate signage.

(2) At a minimum, businesses that are pre-certified as
State Emergency Response Team members must have the on-site
capability to provide fuel dispensing services to other State
Emergency Response Team members within 36 hours after a major
disaster has occurred, or demonstrate the ability to have such
service available, and agree to make service available as needed.
Businesses may choose to sell fuel through a preexisting contract
with local, state, and federal response agencies or may provide
point-of-sale service to such agencies. In addition, businesses
may choose to sell to the general public, or may be directed to
provide such service by county or state emergency management
officers pursuant to s. 252.35 and s. 252.38. If requested,
appropriate law enforcement security may be provided to the
participating business for the purpose of maintaining civil order
during operating hours.

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232 (3) Persons who are designated as members of the State
 233 Emergency Response Team and who can produce appropriate
 234 identification, as determined by state or county emergency
 235 management officials, will be given priority for fuel purchase at
 236 businesses designated as State Emergency Response Team members.
 237 Businesses may be directed by county or state emergency
 238 management officials to remain open for some period during
 239 declared curfew to provide service for emergency personnel. Under
 240 such direction, the business shall not be in violation of the
 241 curfew and shall not be penalized for such operation, nor shall
 242 the emergency personnel be in violation of such curfew. Persons
 243 traveling during periods of curfew shall be required to produce
 244 valid official documentation of their State Emergency Response
 245 Team or local emergency response position. Such documentation may
 246 include, but is not limited to, current State Emergency Response
 247 Team identification badge, current law enforcement or other
 248 response agency identification or shield, current health care
 249 employee identification card, or current government services
 250 identification card indicating a critical services position.
 251 (4) Businesses that are designated as State Emergency
 252 Response Team members may request priority re-supply fueling in
 253 order to continue service to emergency responders. Such request
 254 is not binding, but shall be considered by emergency managers in
 255 determining appropriate response protocol.
 256 (5) Motor fuel retail outlets that choose to participate in
 257 the Florida Disaster Motor Fuel Supplier Program may receive a
 258 state tax credit of up to 25 percent of the value of a purchase
 259 of equipment and installation required to meet certification
 260 requirements established by the Division of Emergency

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Management's local county emergency management director. The total tax credit for an individual certified location may not exceed \$15,000. The Florida Department of Revenue is authorized to issue the tax credit with prior approval with the facility's payment of taxes on motor fuel sales or corporate taxes to be predetermined by both the department and the facility owner.

(6) Regulation of alternate power sources at motor fuel outlets and other facilities preempted to the state.--Notwithstanding any other law or local ordinance, and to ensure an appropriate emergency management response to major disasters in the state, the regulation, requirements for site, and placement of alternate power source capabilities and equipment at motor fuel terminal facilities, wholesalers, and retail sales outlets shall be exclusively controlled by the state.

(7) Review of Florida disaster motor fuel supply distribution.--The Department of Environmental Protection Energy Office shall review situational progress in post disaster motor fuel supply distribution and provide a report to the Legislature by March 1, 2007. The report shall include information on statewide compliance with s. 526.143 and identification of all motor fuel retail outlets that are participating in the Florida Disaster Motor Fuel Supplier Program.

Section 4. Subsection (4) is added to section 553.509, Florida Statutes, to read:

553.509 Vertical accessibility.--Nothing in sections 553.501-553.513 or the guidelines shall be construed to relieve the owner of any building, structure, or facility governed by those sections from the duty to provide vertical accessibility to

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290 | all levels above and below the occupiable grade level, regardless
291 | of whether the guidelines require an elevator to be installed in
292 | such building, structure, or facility, except for:

293 | (4)(a) Any person, firm, or corporation that owns or
294 | operates a residential multifamily dwelling, including a
295 | condominium, which is at least 75 feet high and contains a public
296 | elevator, as described in s. 399.035(2) and (3) and rules
297 | promulgated by the Florida Building Commission shall have at
298 | least one public elevator that is capable of operating on an
299 | alternate generated power source for emergency purposes.
300 | Alternate generated power shall be available for the purpose of
301 | allowing all residents access for a number of hours each day over
302 | a 5-day period following a natural disaster, manmade disaster,
303 | emergency, or other civil disturbance that disrupts the normal
304 | supply of electricity. The alternate generated power source must
305 | be capable of powering any connected fire alarm system in the
306 | building which controls elevator operations.

307 | (b) At a minimum, the elevator must be appropriately pre-
308 | wired and prepared to accept alternate generated power and must
309 | have a connection on the line side of the main disconnect,
310 | pursuant to National Electric Code Handbook, Article 700. In
311 | addition to the required power source for the elevator and
312 | connected fire alarm system in the building, the alternate power
313 | supply must be sufficient to provide emergency lighting to the
314 | lobbies, hallways, and other portions of the building used by the
315 | public. Residential multifamily dwellings must have an available
316 | generator and fuel source on the property or have proof of a
317 | current guaranteed service contract for such equipment and fuel
318 | source to operate the elevator on-call within 24 hours after a

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request. Local building inspectors must provide verification of engineering plans for alternate generated power capability for such buildings to the emergency management director of the county by December 31, 2006. Verification of installation and operational capability must be made by local building inspectors to the emergency management director of the county by December 31, 2007.

(c) Each newly constructed residential multifamily dwelling, as defined in this section, which has an operating elevator must have at least one public elevator that is capable of operating on an alternate generated power source for the purpose of allowing all residents access for a number of hours each day over a 5-day period following a natural disaster, manmade disaster, emergency, or other civil disturbance that disrupts the normal supply of electricity. The alternate generated power source must be capable of powering any connected fire alarm system in the building which controls elevator operations. In addition to the required power source for the elevator and connected fire alarm system in the building, the alternate power supply must be sufficient to provide emergency lighting to the lobbies, hallways, and other portions of the building used by the public. Engineering plans and verification of operational capability must be provided by the local building inspector to the emergency management director of the local county before occupancy of the newly constructed building.

(d) Each person, firm, or corporation that is required to maintain alternate generated power under this section shall maintain a written emergency operations plan that details the sequence of operations before, during, and after a natural or

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manmade disaster or other emergency situation. The plan must include, at a minimum, a life-safety plan for evacuation, maintenance of the electrical and lighting supply, and provision for the health, safety, and welfare of the residents. In addition, the owner or operator of the residential multifamily dwelling must keep a log containing a list of quarterly inspections to keep life-safety and alternate power generation equipment in good and working condition and any contracts for alternate power generation equipment. The written emergency operations plan and log shall be open for periodic inspections by local and state government agencies as deemed necessary. The owner or operator must keep a generator key in a lockbox posted at or near any installed generator unit.

(e) As a part of the annual elevator inspection required in F.S. 399.061, certified inspectors shall confirm that all installed generators required by this chapter are in working order, that the logs are current, and that the required generator key is present in the lockbox posted at or near the installed generator. If a building does not have an installed generator, the inspector shall confirm that the appropriate pre-wiring and switching capabilities are operational and that a contract for contingent services for alternate generated power is current for the operating period.

However, buildings, structures, and facilities must, as a minimum, comply with the requirements in the Americans with Disabilities Act Accessibility Guidelines.

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377 Section 5. Paragraph (i) of subsection (2) of section
378 252.35, Florida Statutes, is amended, and paragraph (j) is
379 created to read:

380 252.35 Emergency management powers; Division of Emergency
381 Management.--

382 (2) The division is responsible for carrying out the
383 provisions of ss. 252.31-252.90. In performing its duties under
384 ss. 252.31-252.90, the division shall:

385 (i) Institute statewide public awareness programs. This
386 shall include an intensive public educational campaign on
387 emergency preparedness issues including but not limited to
388 personal responsibility of individual citizens to be self
389 sufficient for up to 72 hours following a natural or manmade
390 disaster. The public educational campaign shall include relevant
391 information on statewide disaster plans, evacuation routes, fuel
392 suppliers and sheltering information. All educational materials
393 must be available in alternative formats and mediums to ensure
394 that they are available to persons with disabilities.

395 (j) The Division of Emergency Management and the Department
396 of Education shall coordinate with the Agency For Persons with
397 Disabilities to provide an educational outreach program on
398 disaster preparedness and readiness to individuals who have
399 limited English skills and identify persons who are in need of
400 assistance but are not defined under special needs criteria.

401 Section 6. This act shall take effect July 1, 2006.
402

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB DS 06-03 Succession to the Office of Governor
SPONSOR(S): Domestic Security Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Domestic Security Committee		Wiggins <i>SA</i>	Newton <i>SA</i>
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This PCB is to update s.14.055, F.S. to reflect Article IV, Section IV of the Florida Constitution and the new structure of the cabinet. Presently, s.14.055, F.S., includes the Secretary of State and the Comptroller as part of the cabinet and those positions are included in the line of succession upon vacancy of the office of the Governor. The Secretary of State and Comptroller positions are no longer part of the cabinet and are no longer a part of the succession line for the office of Governor. This PCB is amends s.14.055, F.S. to aligned with the change in the Florida Constitution.

New Cabinet Structure

In 1998 the Constitutional Revision Commission proposed a rewrite of Article IV, Section IV of the Florida Constitution that reduced the Florida Cabinet from six elected officials to three. Effective January 7, 2003, the Florida Cabinet consists of the Attorney General, the Chief Financial Officer and the Commissioner of Agriculture. The Cabinet offices of Secretary of State and Commissioner of Education became appointed offices and their respective agencies became the responsibility of the Governor. The revised constitution also created a new State Board of Education with seven members appointed by the Governor to oversee the Department of Education. The Cabinet offices of Treasurer and Comptroller were merged into the new position of Chief Financial Officer who serves as agency head for the newly created Department of Financial Services.

Succession line

When the office of Governor becomes vacant, the Lieutenant Governor shall become Governor. The succession line continues as follows: Attorney General, Chief Financial Officer, and the Commissioner of Agriculture. The exception is when the Governor appoints a successor to the office of Lieutenant Governor. If the Governor appoints a successor then that individual, shall receive all of the rights and privileges of the office of the Governor. If a vacancy still occurs, then the Speaker of the House of Representatives and President of the Senate shall convene the Legislature within 15 days for the purpose of choosing a person to serve as Governor for the remainder of the term. A successor shall be elected by a majority vote in a joint session of both houses.

This PCB does not appear to have fiscal impact on state and local governments.

This PCB takes effect July 1, 2006.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: pcb03.DS.doc
DATE: 3/1/2006

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government- , The Secretary of State and Commissioner of Education are no longer a part of the Florida cabinet and are no longer included in the succession line to the office of the Governor. The revised Florida Cabinet consists of the Attorney General, the Chief Financial Officer and the Commissioner of Agriculture. The Cabinet offices of Secretary of State and Commissioner of Education became appointed offices and their respective agencies became the responsibility of the Governor. By eliminating the Secretary of State and Commissioner of Education cabinet positions the succession process is streamlined.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Section .5, Art. IV of the State Constitution describes the Florida Cabinet as three elected officials; the Attorney General, the Chief Financial Officer and the Commissioner of Agriculture.

The change to the cabinet was effective January 7, 2003, This PCB will update s.14.055, F.S. with Florida's Constitution and remove the language that references the Secretary of State and Comptroller as part of the Governor's cabinet and as a part of the succession line to the office of Governor.

C. SECTION DIRECTORY:

Section 1. 14.055 F.S. The purpose of this PCB is to update s.14.055, F.S. to reflect Article IV, Section IV of the Florida Constitution and the new structure of the cabinet. Presently, s.14.055, F.S., includes the Secretary of State and the Comptroller as part of the cabinet and those positions are included in the line of succession upon vacancy of the office of the Governor. The Secretary of State and Comptroller positions are no longer part of the cabinet and are no longer a part of the succession line for the office of Governor. This PCB is amending s.14.055, F.S. so it is aligned with the change in the Florida Constitution.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

N/A

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

N/A

2. Other:

B. RULE-MAKING AUTHORITY:

N/A

C. DRAFTING ISSUES OR OTHER COMMENTS:

N/A

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

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1 A bill to be entitled
 2 An act relating to succession to the office of Governor;
 3 amending s. 14.055, F.S.; revising the provision of law
 4 specifying the authorized successors to the office of
 5 Governor and their order or succession; providing an
 6 effective date.

7
 8 Be It Enacted by the Legislature of the State of Florida:

9
 10 Section 1. Section 14.055, Florida Statutes, is amended to
 11 read:

12 14.055 Succession to office of Governor.--Upon vacancy in
 13 the office of Governor, the Lieutenant Governor shall become
 14 Governor. Upon vacancy in the office of Lieutenant Governor, the
 15 Governor shall appoint a successor who shall serve for the
 16 remainder of the term, provided that if after the such
 17 appointment a vacancy occurs ~~shall occur~~ in the office of
 18 Governor with more than 28 months remaining in the term, then at
 19 the next statewide general election the electors shall choose a
 20 Governor and Lieutenant Governor to fill the remainder of the
 21 term in the manner provided in s. 5, Art. IV of the State
 22 Constitution. Upon vacancy in the office of Governor and in the
 23 office of Lieutenant Governor, ~~the Secretary of State shall~~
 24 ~~become Governor; or if the office of Secretary of State be~~
 25 ~~vacant, then~~ the Attorney General shall become Governor; ~~or if~~
 26 the office of Attorney General is ~~be~~ vacant, ~~then the Comptroller~~
 27 ~~shall become Governor; or if the office of Comptroller be vacant,~~
 28 ~~then~~ the Chief Financial Officer ~~Treasurer~~ shall become Governor;
 29 or if the office of Chief Financial Officer ~~is~~ ~~Treasurer~~ ~~be~~

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30 | ~~vacant, then the Commissioner of Education shall become Governor;~~
31 | ~~or if the office of Commissioner of Education be vacant, then the~~
32 | Commissioner of Agriculture shall become Governor. Except as
33 | otherwise provided in this section with respect to an appointed
34 | successor to the office of Lieutenant Governor, a successor under
35 | this section shall serve for the remainder of the term and shall
36 | receive all the rights, privileges, and emoluments of the
37 | Governor. In case a vacancy occurs ~~shall occur~~ in the office of
38 | Governor and provision is not made in this section ~~herein~~ for
39 | filling the ~~such~~ vacancy, ~~then~~ the Speaker of the House of
40 | Representatives and the President of the Senate shall convene the
41 | Legislature by joint proclamation within 15 days for the purpose
42 | of choosing a person to serve as Governor for the remainder of
43 | the term. A successor shall be elected by a majority vote in a
44 | joint session of both houses.

45 | Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB DS 06-04



Seaport Employee Security Access/Credentialing Waiver

Process

SPONSOR(S): Domestic Security Committee

TIED BILLS:

IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Domestic Security Committee		Newton 	Newton 
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This PCB establishes a waiver review process for persons who have been disqualified for unescorted access to seaports.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard Individual Liberty

The PCB provides for a mechanism to safeguard the rights of individuals to maintain or gain employment on seaports through a waiver process of currently disqualifying circumstances.

Maintain Public Security

The PCB provides public protections through due process ensuring that security credentialing on seaports is not compromised or usurped.

B. EFFECT OF PROPOSED CHANGES:

The PCB amends s. 311.12, F.S., in order to provide a review process for individuals who have been found unqualified for unescorted access and denied employment by a seaport. Under this provision, the Department of Law Enforcement will conduct a review based on a request for waiver from an individual who has been found unqualified according to the provisions of s. 311.12 (3) (e), F.S. The review will be based on the information submitted by the applicant and the findings from the Parole Commission administrative staff. Such a review is exempt from procedures required under the Administrative Procedures Act, Chapter 120, F.S.

C. SECTION DIRECTORY:

Section 1. Creates Subsection 3 paragraph (e) of s. 311.12, F.S., authorizing the Department of Law Enforcement to establish a waiver process for individuals who are determined unqualified for unescorted access credentials and denied employment by a seaport and provides for notification of final disposition of the case.

Section 2. Provides that the provisions of the PCB shall take effect July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See the Fiscal Comments section, below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

The possible number of waivers to be processed is currently unknown and therefore associated costs can not be determined.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this PCB does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No additional grant of rulemaking authority is required to implement the provisions of this PCB.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED PCB CHANGES

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A bill to be entitled
An act relating to seaport security; amending s. 311.12,
F.S.; requiring that the Department of Law Enforcement
establish a waiver process to allow an individual, who is
otherwise unqualified, to be allowed unescorted access to
a seaport or restricted access area; requiring the
administrative staff of the Parole Commission to review
the facts of the waiver application and transmit the
findings to the Department of Law Enforcement; requiring
the department to make a final disposition of the
application and notify the applicant and the port
authority that denied employment to the applicant;
exempting the review from ch. 120, F.S.; providing an
effective date

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (e) is added to subsection (3) of
section 311.12, Florida Statutes, to read:

311.12 Seaport security standards.--

(3)

(e) The Department of Law Enforcement shall establish a
waiver process to allow unescorted access to an individual who is
found to be unqualified under paragraph (c) and denied employment
by a seaport. The waiver consideration shall be based on the
circumstances of any disqualifying act or offense, restitution
made by the individual, and other factors from which it may be
determined that the individual does not pose a risk of engaging
in theft, drug trafficking, or terrorism within the public
seaports regulated under this chapter or of harming any person.

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30 The waiver process shall begin when an individual who has been
31 denied initial employment within or regular unescorted access to
32 restricted areas of a public seaport as described in paragraph
33 (c) submits an application for a waiver and notarized letter or
34 affidavit from the individual's employer or union representative
35 which states the mitigating reasons for initiating the waiver
36 process. No later than 90 days after receipt of the application,
37 the administrative staff of the Parole Commission shall conduct a
38 factual review of the waiver application. Findings of fact shall
39 be transmitted to the Department of Law Enforcement for review.
40 The department shall make a copy of those findings available to
41 the applicant before final disposition of the waiver request. The
42 department shall make a final disposition of the waiver request
43 based on the factual findings of the investigation by the Parole
44 Commission. The port authority that originally denied employment
45 and the waiver applicant shall be notified of the final
46 disposition of the waiver application by the department. This
47 review process is exempt from chapter 120.

48 Section 2 This act shall take effect July 1, 2006.